

**Summary: EPA Evaluation of
Maryland Draft Watershed Implementation Plan**

Rating for Gap-Filling Strategies: Some Minor Deficiencies

WIP Numbers Compared to 7/1 and 8/13 Allocations: Statewide, Maryland met the Nitrogen, Phosphorous, and Sediment targets. However, some basins exceed for Nitrogen, Phosphorous, and Sediment. We understand that Maryland has already adjusted the WIP to meet all allocations in all basins. Adjustments will not be incorporated into the draft TMDL released 9/24, and if validated may be incorporated into the final Plan.

The Backstop Allocations in the Draft TMDL that will remain if the final Phase I WIP is not strengthened:

- **Minor level backstop allocations** to Maryland's nonpoint source load allocations to meet July 1 and August 13 nutrient and sediment allocations in each major basin within Maryland. Changes do not affect NPDES permit conditions. EPA will remove minor backstop final Phase I WIP meets allocations in each basin or demonstrates that exceedances in some basins will not contribute to violations in water quality standards

Overall

- Maryland developed the most substantial Watershed Implementation Plan and is committed to having practices in place by 2020 to meet the allocations and by 2017 to achieve 70% of reductions
- The final WIP should indicate a commitment to more specific implementation plans from among the strategy options that are listed, as well as specific contingency plans for implementation should the former be delayed or prove to be infeasible
- The final WIP should include plans with schedules for addressing any known program funding and staffing gaps for all major sectors – wastewater, agriculture, and stormwater
- Information on compliance rates and enforcement in current programs for all sectors should be included
- EPA will work with Maryland to resolve questions regarding BMP efficiencies and model outputs

Agriculture: Some Minor Deficiencies in Gap-Filling Strategies

Key Areas for Improvement

- No new policies/regulatory/legislative changes are proposed and no detailed contingencies are identified. EPA expects to see enforceable or otherwise binding commitments to achieve reductions from agriculture sector
- EPA wants to ensure that MD's efforts to revisit the P index will address how to have more balanced P management so that manure is not over-applied and P-saturated soils do not become a load source
- The final WIP should include greater commitment to tracking and verification to assure full implementation of nutrient and sediment controls, most notably nutrient management plans

Opportunities for Strengthening Draft WIP, State Programs, and/or Authorities

- The final WIP should include commitments to develop new policies as needed to strengthen implementation requirements for agricultural practices. MD could consider, for example:

- Revising nutrient management plan regulations to include non-point source agricultural implementation measures included in the WIP input deck and/or recommended in the Executive Order 13508 Section 502 guidance,
- Requiring the use of cover crops; and
- Consider greater engagement with poultry integrators to find solutions to manure management, with an emphasis on alternative uses of manure

Urban Stormwater: Some Minor Deficiencies in Gap-Filling Strategies

Key Areas for Improvement and Opportunities for Strengthening Draft WIP

- Maryland's permitting program has the foundation to build retrofit requirements into MS4 permits. The final WIP should include quantitative descriptions of stormwater management actions including clarification of performance standards for retrofits and redevelopment, as well as methodology to clearly establish baseline. Performance standard should include stable hydrology in receiving streams. EPA believes that nutrient reductions greater than 25% could be achieved through implementation of a strong performance standard and effective nutrient and sediment controls
- EPA is concerned that the new and redevelopment standards are not adequately enforceable. The final WIP should provide data on how often exceptions are made to performance requirements and the consequences of such exceptions in order to support a better understanding of the outcomes from program implementation
- In order to prevent increases in loads from new development outside of MS4-regulated areas, discuss commitment and mechanism (state rules, construction general permit, residual designation authority) to regulate additional urban stormwater discharges. Final WIP should include criteria for applying RDA. Who would exercise this authority? How? When?
- Final WIP should include descriptions of the policy and financing mechanisms for implementing stormwater retrofit programs and how MD will track retrofit implementation
- Provide a more detailed description of the scope (who is regulated) and enforceability of new and redevelopment standards